

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**KELLY PINN**, on behalf of herself and all  
others similarly situated,

*Plaintiff,*

v.

**XPONENTIAL FITNESS, INC. and XYZ  
COMPANY,**

*Defendants.*

Civil Case No.: 3:22-cv-2684-M

**PLAINTIFF KELLY PINN'S MOTION FOR  
LEAVE TO CONDUCT DEPOSITIONS PRIOR TO A RULE 26(f) CONFERENCE**

TO THE HONORABLE JUDGE OF SAID COURT:

In accordance with Federal Rules of Civil Procedure 26(d)(1) and 30(a)(2)(A)(iii), Plaintiff Kelly Pinn respectfully moves this Court for entry of an order granting leave to conduct the depositions of (1) Sarah Luna and (2) Ryan Junk for the limited purpose of identifying (a) the franchisee of the Cyclebar Southlake franchisee during the relevant time period; (b) the operator of the Cyclebar Southlake franchise during the relevant time period; and (c) the Xponential entity or entities and/or any applicable third parties responsible for the marketing campaign that resulted in the text messages received by Ms. Pinn.

For the reasons set forth in the accompanying Memorandum of Law, this Court should grant the motion.

**Dated:** February 16, 2023

By: /s/ Chris R. Miltenberger  
Chris R. Miltenberger  
Texas Bar Number: 14171200

**The Law Office of Chris R. Miltenberger,  
PLLC**

1360 N. White Chapel, Suite 200  
Southlake, Texas 76092  
Tel: (817) 416-5060  
Fax: (817) 416-5062  
[chris@crmlawpractice.com](mailto:chris@crmlawpractice.com)

Eric H. Weitz, Esquire  
Max S. Morgan, Esquire  
**THE WEITZ FIRM, LLC**  
1515 Market Street, #1100  
Philadelphia, PA 19102  
Tel: (267) 587-6240  
Fax: (215) 689-0875  
[eric.weitz@theweitzfirm.com](mailto:eric.weitz@theweitzfirm.com)  
[max.morgan@theweitzfirm.com](mailto:max.morgan@theweitzfirm.com)  
(*Pro Hac Vice* to be filed)

**Certificate of Conference**

Pursuant to L.R. 7.1(a), (b) and (h), counsel for Plaintiff conferred with Counsel for Defendant regarding the within Motion on February 14, 2023. The Parties could not come to an agreement and, therefore, that motion is opposed.

By: /s/ Chris R. Miltenberger  
Chris R. Miltenberger

**Certificate of Service**

The undersigned certifies that the foregoing document was filed electronically through the Court's CM/ECF system in compliance with the Local Rules. Defendants have not yet appeared.

By: /s/ Chris R. Miltenberger  
Chris R. Miltenberger